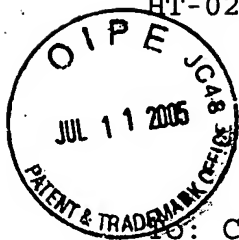


HT-02-014



July 6, 2005

To: Commissioner for Patents

P.O. Box 1450

Alexandria, VA 22313-1450

Attn: Art Unit 2818 - Tu Tu V Ho

From: George O. Saile, Reg. No. 19,572

28 Davis Avenue

Poughkeepsie, N. Y., 12603

Subject: | Serial No.: 10/647,716 08/25/03 |

Tai Min et al.

MAGNETIC RANDOM ACCESS MEMORY  
DESIGNS WITH CONTROLLED MAGNETIC  
SWITCHING MECHANISM

| \_ Art Group: 2818 Tu Tu V Ho \_ |

#### RESPONSE TO RESTRICTION REQUIREMENT


This is in response to the Restriction or Election Requirement in the Office Action dated 06/17/05. In that Office Action, restriction was required to one of two stated

#### CERTIFICATE OF MAILING

I hereby certify that this correspondence is being deposited with the United States Postal Service as first class mail in an envelope addressed to: Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450, on July 7, 2005.

Stephen B. Ackerman, Reg.# 37761

Signature/Date

 7/7/05

Inventions under 35 U.S.C. 121. The Inventions stated are Group I - Claims 1-15 to a magnetic tunnel junction (MTJ) cell, classified in Class 257, subclass 421 and Group II - Claims 16-18 to a process, classified in Class 438, subclass 48.

Applicant provisionally elects to be examined the Invention described by the Examiner as Group II - Claims 16-18 drawn to a process classified in Class 438, subclass 48. This election is made with traverse of the requirement under 37 C.F.R.1.143 for the reasons given in the following paragraphs.

The Examiner is respectfully requested to reconsider the Requirement for Restriction given in the Office Action. The Examiner gives the reason for the distinctness of the two inventions as (1) that the process as claimed can be used to make other and materially different products or (2) that the product as claimed can be made by another and materially different process (MPEP 806.05(f)). However, upon reading the product Claims against the process Claims one can readily see that the product Claims are directed to "a magnetic tunnel junction (MTJ) cell" and the process Claims are directed to "a method for fabricating a magnetic tunnel junction (MTJ) cell, said cell having a narrow dimension as its middle whereat artificial nucleation sites for magnetization switching are formed and said cell having a reduced sensitivity to defects and shape irregularities", it is necessary to obtain claims in

both the product and method claim language. The method Claims necessarily use the product and vice versa. The field of search must necessarily cover both the method class/subclass 438/48 and products class 257/421 in addition to other related Classes and subclasses to provide a complete and adequate search. The fields of search for the Group I and Group II inventions are clearly and necessarily co-extensive. The Examiner's suggestion that "In the instant case, unpatentability of Invention I would not necessarily imply unpatentability of Invention II, since the device of Invention I could be made by processes materially different from those of Invention II. For example, the device of Invention I could be formed by chemical etching", is very speculative and really has nothing to do with the Claims as presented in this Patent Application. Further, it is respectfully suggested that these reasons are insufficient to place the additional cost of a second Patent Application upon the Applicants. Therefore, it is respectfully requested that the Examiner withdraw this restriction requirement for these reasons.

Withdrawal of the Restriction Requirement and the Allowance of the present Patent Application is requested.

Sincerely,

A handwritten signature in black ink, appearing to read 'S. B. Ackerman', with a stylized flourish at the end.

Stephen B. Ackerman, Reg. #37761